

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**KIMBERLY LOUISE PETRAGLIA, R.N.**

2528 Cliff Drive  
Newport Beach, CA 92633

Registered Nurse License No. 480638

Respondent.

Case No. 2008-241

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 18, 2008.

It is so ORDERED August 18, 2008.

*LaTranene M. Tate*

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FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
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Deputy Attorney General  
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8 Attorneys for Complainant

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10 **BEFORE THE**  
11 **BOARD OF REGISTERED NURSING**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2008-241

14 **KIMBERLY LOUISE PETRAGLIA, R.N.**

15 2528 Cliff Drive  
16 Newport Beach, CA 92633

17 Registered Nurse Lic. No. 480638

18 Respondent.

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
20 above-entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant), is the Executive Officer of  
23 the Board of Registered Nursing. She brought this action solely in her official capacity and is  
24 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
25 by T. Michelle Laird, Deputy Attorney General.

26 2. Respondent Kimberly Petraglia, R.N. (Respondent), is represented in this  
27 proceeding by attorney Arthur H. Barends, whose address is 10209 Santa Monica Blvd., Santa  
28 Monica, CA 90067.

3. On or about August 31, 1992, the Board of Registered Nursing issued Registered Nurse License No. 480638 to Respondent Kimberly Petraglia. The Registered Nurse license was in full force and effect at all times relevant to the charges brought in Accusation No. 2008-241 and will expire on January 31, 2010, unless renewed.

#### **JURISDICTION**

4. Accusation No. 2008-241 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 27, 2008. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2008-241 is attached hereto as exhibit A and is incorporated by reference.

#### **ADVISEMENT AND WAIVERS**

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2008-241. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

#### **CULPABILITY**

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2008-241.

1                   9.       Respondent agrees that her Registered Nurse license is subject to  
2 discipline and she agrees to be bound by the Board of Registered Nursing's imposition of  
3 discipline as set forth in the Disciplinary Order below.

4                                   **CIRCUMSTANCES IN MITIGATION**

5                   10.       Respondent has never been the subject of any disciplinary action. She is  
6 admitting responsibility at an early stage in the proceedings. She has successfully participated in  
7 drug rehabilitation and treatment programs, which included Nurse Recovery Group and AA  
8 meeting attendance. Her plea of guilty resulting in her October 7, 2003 criminal conviction has  
9 been set aside, and the case has been dismissed, following her successful completion of the terms  
10 of her probation.

11                                   **CONTINGENCY**

12                   11.       This stipulation shall be subject to approval by the Board of Registered  
13 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the  
14 Board of Registered Nursing may communicate directly with the Board regarding this stipulation  
15 and settlement, without notice to or participation by Respondent or her counsel. By signing the  
16 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek  
17 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
18 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
19 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
20 action between the parties, and the Board shall not be disqualified from further action by having  
21 considered this matter.

22                   12.       The parties understand and agree that facsimile copies of this Stipulated  
23 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
24 force and effect as the originals.

25                   13.       In consideration of the foregoing admissions and stipulations, the parties  
26 agree that the Board may, without further notice or formal proceeding, issue and enter the  
27 following Disciplinary Order:

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**Severability Clause.** Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

**Criminal Court Orders:** If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

Upon successful completion of probation, Respondent's license shall be fully restored.

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1                   3.     **Report in Person.** Respondent, during the period of probation, shall  
2 appear in person at interviews/meetings as directed by the Board or its designated  
3 representatives.

4                   4.     **Residency, Practice, or Licensure Outside of State.** Periods of  
5 residency or practice as a registered nurse outside of California shall not apply toward a reduction  
6 of this probation time period. Respondent's probation is tolled, if and when she resides outside  
7 of California. Respondent must provide written notice to the Board within 15 days of any change  
8 of residency or practice outside the state, and within 30 days prior to re-establishing residency or  
9 returning to practice in this state.

10                   Respondent shall provide a list of all states and territories where she has ever been  
11 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further  
12 provide information regarding the status of each license and any changes in such license status  
13 during the term of probation. Respondent shall inform the Board if she applies for or obtains a  
14 new nursing license during the term of probation.

15                   5.     **Submit Written Reports.** Respondent, during the period of probation,  
16 shall submit or cause to be submitted such written reports/declarations and verification of actions  
17 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
18 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
19 Program. Respondent shall immediately execute all release of information forms as may be  
20 required by the Board or its representatives.

21                   Respondent shall provide a copy of this Decision to the nursing regulatory agency  
22 in every state and territory in which she has a registered nurse license.

23                   6.     **Function as a Registered Nurse.** Respondent, during the period of  
24 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
25 hours per week for 6 consecutive months or as determined by the Board.

26                   For purposes of compliance with the section, "engage in the practice of registered  
27 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or  
28 work in any non-direct patient care position that requires licensure as a registered nurse.

1           The Board may require that advanced practice nurses engage in advanced practice  
2 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the  
3 Board.

4           If Respondent has not complied with this condition during the probationary term,  
5 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
6 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
7 grant an extension of Respondent's probation period up to one year without further hearing in  
8 order to comply with this condition. During the one year extension, all original conditions of  
9 probation shall apply.

10           **7. Employment Approval and Reporting Requirements.** Respondent  
11 shall obtain prior approval from the Board before commencing or continuing any employment,  
12 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
13 performance evaluations and other employment related reports as a registered nurse upon request  
14 of the Board.

15           Respondent shall provide a copy of this Decision to her employer and immediate  
16 supervisors prior to commencement of any nursing or other health care related employment.

17           In addition to the above, Respondent shall notify the Board in writing within  
18 seventy-two (72) hours after she obtains any nursing or other health care related employment.  
19 Respondent shall notify the Board in writing within seventy-two (72) hours after she is  
20 terminated or separated, regardless of cause, from any nursing, or other health care related  
21 employment with a full explanation of the circumstances surrounding the termination or  
22 separation.

23           **8. Supervision.** Respondent shall obtain prior approval from the Board  
24 regarding Respondent's level of supervision and/or collaboration before commencing or  
25 continuing any employment as a registered nurse, or education and training that includes patient  
26 care.

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Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

**9. Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

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Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Cost Recovery.** Respondent shall pay to the Board costs in the amount of \$6,628.00 (six-thousand, six-hundred and twenty-eight dollars), pursuant to Business and Professions Code section 125.3. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may

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1 grant an extension of Respondent's probation period up to one year without further hearing in  
2 order to comply with this condition. During the one year extension, all original conditions of  
3 probation will apply.

4           **12. Violation of Probation.** If Respondent violates the conditions of her  
5 probation, the Board, after giving Respondent notice and an opportunity to be heard, may set  
6 aside the stay order and impose the stayed discipline of Respondent's license.

7           If during the period of probation, an accusation or petition to revoke probation has  
8 been filed against Respondent's license or the Attorney General's Office has been requested to  
9 prepare an accusation or petition to revoke probation against Respondent's license, the  
10 probationary period shall automatically be extended and shall not expire until the accusation or  
11 petition has been acted upon by the Board.

12           **13. License Surrender.** During Respondent's term of probation, if she ceases  
13 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
14 probation, Respondent may surrender her license to the Board. The Board reserves the right to  
15 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to  
16 take any other action deemed appropriate and reasonable under the circumstances, without  
17 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent  
18 will no longer be subject to the conditions of probation.

19           Surrender of Respondent's license shall be considered a disciplinary action and  
20 shall become a part of Respondent's license history with the Board. A registered nurse whose  
21 license has been surrendered may petition the Board for reinstatement no sooner than the  
22 following minimum periods from the effective date of the disciplinary decision:

23           (1) Two years for reinstatement of a license that was surrendered for any  
24 reason other than a mental or physical illness; or

25           (2) One year for a license surrendered for a mental or physical illness.

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1                   14.     **Physical Examination.** Within 45 days of the effective date of this  
2 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or  
3 physician assistant, who is approved by the Board before the assessment is performed, submit an  
4 assessment of the Respondent's physical condition and capability to perform the duties of a  
5 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
6 medically determined, a recommended treatment program will be instituted and followed by the  
7 Respondent with the physician, nurse practitioner, or physician assistant providing written  
8 reports to the Board on forms provided by the Board.

9                   If Respondent is determined to be unable to practice safely as a registered nurse,  
10 the licensed physician, nurse practitioner, or physician assistant making this determination shall  
11 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
12 Attorney General's office prepare an accusation or petition to revoke probation. Respondent  
13 shall immediately cease practice and shall not resume practice until notified by the Board.  
14 During this period of suspension, Respondent shall not engage in any practice for which a license  
15 issued by the Board is required until the Board has notified Respondent that a medical  
16 determination permits Respondent to resume practice. This period of suspension will not apply  
17 to the reduction of this probationary time period.

18                  If Respondent fails to have the above assessment submitted to the Board within  
19 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
20 practice until notified by the Board. This period of suspension will not apply to the reduction of  
21 this probationary time period. The Board may waive or postpone this suspension only if  
22 significant, documented evidence of mitigation is provided. Such evidence must establish good  
23 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
24 provided. Only one such waiver or extension may be permitted.

25                  15.     **Participate in Treatment/Rehabilitation Program for Chemical**  
26 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary  
27 period or shall have successfully completed prior to commencement of probation a Board-  
28 approved treatment/rehabilitation program of at least six months duration. As required, reports

1 shall be submitted by the program on forms provided by the Board. If Respondent has not  
2 completed a Board-approved treatment/rehabilitation program prior to commencement of  
3 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in  
4 a program. If a program is not successfully completed within the first nine months of probation,  
5 the Board shall consider Respondent in violation of probation.

6 Based on Board recommendation, each week Respondent shall be required to  
7 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics  
8 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed  
9 by the Board. If a nurse support group is not available, an additional 12-step meeting or  
10 equivalent shall be added. Respondent shall submit dated and signed documentation confirming  
11 such attendance to the Board during the entire period of probation. Respondent shall continue  
12 with the recovery plan recommended by the treatment/rehabilitation program or a licensed  
13 mental health examiner and/or other ongoing recovery groups.

14 16. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent  
15 shall completely abstain from the possession, injection or consumption by any route of all  
16 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when  
17 the same are ordered by a health care professional legally authorized to do so as part of  
18 documented medical treatment. Respondent shall have sent to the Board, in writing and within  
19 fourteen (14) days, by the prescribing health professional, a report identifying the medication,  
20 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the  
21 medication will no longer be required, and the effect on the recovery plan, if appropriate.

22 Respondent shall identify for the Board a single physician, nurse practitioner or  
23 physician assistant who shall be aware of Respondent's history of substance abuse and will  
24 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled  
25 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician  
26 assistant shall report to the Board on a quarterly basis Respondent's compliance with this  
27 condition. If any substances considered addictive have been prescribed, the report shall identify a  
28 program for the time limited use of any such substances.

1           The Board may require the single coordinating physician, nurse practitioner, or  
2 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in  
3 addictive medicine.

4           17.     **Submit to Tests and Samples.** Respondent, at her expense, shall  
5 participate in a random, biological fluid testing or a drug screening program which the Board  
6 approves. The length of time and frequency will be subject to approval by the Board.  
7 Respondent is responsible for keeping the Board informed of Respondent's current telephone  
8 number at all times. Respondent shall also ensure that messages may be left at the telephone  
9 number when she is not available and ensure that reports are submitted directly by the testing  
10 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
11 to the Board by the program and Respondent shall be considered in violation of probation.

12           In addition, Respondent, at any time during the period of probation, shall fully  
13 cooperate with the Board or any of its representatives, and shall, when requested, submit to such  
14 tests and samples as the Board or its representatives may require for the detection of alcohol,  
15 narcotics, hypnotics, dangerous drugs, or other controlled substances.

16           If Respondent has a positive drug screen for any substance not legally authorized  
17 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the  
18 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent  
19 from practice pending the final decision on the petition to revoke probation or the accusation.  
20 This period of suspension will not apply to the reduction of this probationary time period.

21           If Respondent fails to participate in a random, biological fluid testing or drug  
22 screening program within the specified time frame, Respondent shall immediately cease practice  
23 and shall not resume practice until notified by the Board. After taking into account documented  
24 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the  
25 Board may suspend Respondent from practice pending the final decision on the petition to  
26 revoke probation or the accusation. This period of suspension will not apply to the reduction of  
27 this probationary time period.

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1                   18.     **Mental Health Examination.** Respondent shall, within 45 days of the  
2 effective date of this Decision, have a mental health examination including psychological testing  
3 as appropriate to determine her capability to perform the duties of a registered nurse. The  
4 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
5 practitioner approved by the Board. The examining mental health practitioner will submit a  
6 written report of that assessment and recommendations to the Board. All costs are the  
7 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
8 result of the mental health examination will be instituted and followed by Respondent.


9                   If Respondent is determined to be unable to practice safely as a registered nurse,  
10 the licensed mental health care practitioner making this determination shall immediately notify  
11 the Board and Respondent by telephone, and the Board shall request that the Attorney General's  
12 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
13 practice and may not resume practice until notified by the Board. During this period of  
14 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
15 is required, until the Board has notified Respondent that a mental health determination permits  
16 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
17 probationary time period.

18                   If Respondent fails to have the above assessment submitted to the Board within  
19 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
20 practice until notified by the Board. This period of suspension will not apply to the reduction of  
21 this probationary time period. The Board may waive or postpone this suspension only if  
22 significant, documented evidence of mitigation is provided. Such evidence must establish good  
23 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
24 provided. Only one such waiver or extension may be permitted.


25                   19.     **Therapy or Counseling Program.** Respondent, at her expense, shall  
26 participate in an on-going counseling program until such time as the Board releases her from this  
27 requirement and only upon the recommendation of the counselor. Written progress reports from  
28 the counselor will be required at various intervals.

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DATED: 5/12/2008

  
KIMBERLY L. PETRAGLIA, R.N.  
Respondent

DATED: 5/13/08

  
ARTHUR H. BAREN'S, ESQ.  
Attorney for Respondent

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1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
3 submitted for consideration by the Board of Registered Nursing of the Department of Consumer  
4 Affairs.

5 DATED: May 22, 08

6  
7 EDMUND G. BROWN JR., Attorney General  
8 of the State of California

9 JAMES M. LEDAKIS  
10 Supervising Deputy Attorney General

11 T. Michelle Laird  
12 T. MICHELLE LAIRD  
13 Deputy Attorney General

14 Attorneys for Complainant

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**Exhibit A**  
**Accusation No. 2008-241**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 T. MICHELLE LAIRD, State Bar No. 162979  
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4 California Department of Justice  
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8  
9 Attorneys for Complainant

10 **BEFORE THE**  
11 **BOARD OF REGISTERED NURSING**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2008-241

14 KIMBERLY LOUISE PETRAGLIA,  
a.k.a. KIMBERLY LOUISE ANTENUCCI  
15 2528 Cliff Drive  
Newport Beach, CA 92633

**A C C U S A T I O N**

16 Registered Nurse License No. 480638

17 Respondent.  
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19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation  
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing  
23 ("Board"), Department of Consumer Affairs.

24 2. On or about August 31, 1992, the Board issued Registered Nurse License  
25 Number 480638 to Kimberly Louise Petraglia, also known as Kimberly Louise Antenucci  
26 ("Respondent"). Respondent's registered nurse license was in full force and effect at all times  
27 relevant to the charges brought herein and will expire on January 31, 2010, unless renewed.

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## STATUTORY PROVISIONS

3. Business and Professions Code ("Bus. & Prof. Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Bus. & Prof. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Bus. & Prof. Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Bus. & Prof. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof . . .

6. Bus. & Prof. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof . . .

1                   7.       Bus. & Prof. Code section 2765 states:

2                   A plea or verdict of guilty or a conviction following a plea of nolo  
3                   contendere made to a charge substantially related to the qualifications, functions  
4                   and duties of a registered nurse is deemed to be a conviction within the meaning  
5                   of this article. The board may order the license or certificate suspended or revoked,  
6                   or may decline to issue a license or certificate, when the time for appeal has elapsed,  
7                   or the judgment of conviction has been affirmed on appeal or when an order  
8                   granting probation is made suspending the imposition of sentence, irrespective of  
9                   a subsequent order under the provisions of Section 1203.4 of the Penal Code  
10                  allowing such person to withdraw his or her plea of guilty and to enter a plea of  
11                  not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
12                  information or indictment.

13                  8.       Bus. & Prof. Code section 4060 states:

14                  No person shall possess any controlled substance, except that furnished to  
15                  a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
16                  veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
17                  pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
18                  2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant  
19                  pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or  
20                  a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause  
21                  (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.  
22                  This section shall not apply to the possession of any controlled substance by a  
23                  manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
24                  optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
25                  practitioner, or physician assistant, when in stock in containers correctly  
26                  labeled with the name and address of the supplier or producer.

27                  9.       Health and Safety Code ("Health & Saf. Code") section 11173,  
28                  subdivision (a), states, in pertinent part, that no person shall obtain or attempt to obtain  
29                  controlled substances, or procure or attempt to procure the administration of or prescription for  
30                  controlled substances by fraud, deceit, misrepresentation or subterfuge.

#### 31                                   Cost Recovery

32                  10.       Bus. & Prof. Code section 125.3 provides, in pertinent part, that the Board  
33                  may request the administrative law judge to direct a licensee found to have committed a  
34                  violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
35                  investigation and enforcement of the case.

#### 36                                   CONTROLLED SUBSTANCE AT ISSUE

37                  11.       "Demerol," a brand of meperidine hydrochloride, a derivative of pethidine,  
38                  is a Schedule II controlled substance as designated by Health & Saf. Code section 11055,  
39                  subdivision (c)(17).

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Criminal Conviction)**

3 12. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code  
4 section 2761, subdivision (f), in that she was convicted of a crime which is substantially related  
5 to the qualifications, functions, and duties of a registered nurse, as follows: On or about October  
6 7, 2003, in the criminal proceeding titled *People v. Kimberly Louise Petraglia* (Super. Ct. Orange  
7 County, 2003, No. 03NM07018), Respondent was convicted by the Court on her plea of guilty to  
8 one misdemeanor count of violating Penal Code section 484/488 (petty theft) and one  
9 misdemeanor count of violating Bus. & Prof. Code section 4060 (possession of a controlled  
10 substance)<sup>1/</sup>. The circumstances of the crime are that, on or between December 15, 2002, and  
11 March 31, 2003, Respondent willfully and unlawfully stole, took, and carried away the personal  
12 property of Kaiser Permanente Hospital of a value less than four hundred dollars. Further, on or  
13 between said dates, Respondent willfully and unlawfully had in her possession a controlled  
14 substance without a valid prescription from a physician, dentist, podiatrist, veterinarian, or  
15 naturopathic doctor.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Diversion, Possession, and Self-Administration of a Controlled Substance)**

18 13. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code  
19 section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Bus. &  
20 Prof. Code section 2762, subdivision (a), based upon the following:

21 **Diversion of a Controlled Substance:**

22 **Kaiser Permanente Medical Center**

23 a. From approximately October 2002, to April 2003, while on duty as a  
24 registered nurse in the Postpartum Unit at Kaiser Permanente Medical Center ("KPMC") in  
25 Anaheim, California, Respondent did the following: Respondent obtained the controlled  
26 substance Demerol by fraud, deceit, misrepresentation, or subterfuge, in violation of Health &

27 \_\_\_\_\_  
28 1. Respondent was also originally charged with one count of violating Bus. & Prof. Code section 2762,  
subdivision (a); however, this charge was dismissed in view of the plea agreement.

1 Saf. Code section 11173, subdivision (a). Respondent, by her own admission, diverted the  
2 Demerol from KPMC and kept the drug for her own personal use.

3 **St. Joseph Hospital**

4 b. From approximately October 2002, to April 2003, while on duty as a  
5 registered nurse at St. Joseph Hospital ("SJH") in Orange, California, Respondent did the  
6 following: Respondent obtained the controlled substance Demerol by fraud, deceit,  
7 misrepresentation, or subterfuge, in violation of Health & Saf. Code section 11173, subdivision  
8 (a). Respondent, by her own admission, diverted the Demerol from SJH and kept the drug for  
9 her own personal use.

10 **Possession of a Controlled Substance:**

11 c. From approximately October 2002, to April 2003, Respondent possessed  
12 unknown quantities of the controlled substance Demerol without a valid prescription from a  
13 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor, in violation of  
14 Bus. & Prof. Code section 4060.

15 **Self-Administration of a Controlled Substance:**

16 d. From approximately October 2002, to April 2003, Respondent, by her own  
17 admission, self-administered the controlled substance Demerol without lawful authority therefor.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Conviction Related to the Possession of a Controlled Substance)**

20 14. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code  
21 section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Bus. &  
22 Prof. Code section 2762, subdivision (c). On or about October 7, 2003, Respondent was  
23 convicted of a criminal offense involving the possession of a controlled substance, as set forth  
24 above.

25 ///

26 ///

27 ///

28 ///

PRAYER

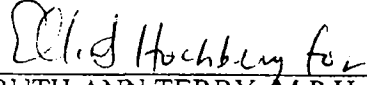
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 480638, issued to Kimberly Louise Petraglia, also known as Kimberly Louise Antenucci;

2. Ordering Kimberly Louise Petraglia, also known as Kimberly Louise Antenucci, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Bus. & Prof. Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 1/30/03

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant